



Written Testimony before the Aging Committee

February 24, 2011

SB 620 AN ACT CONCERNING A PLAN TO ENCOURAGE "AGING IN PLACE"

SB 620 proposes to establish a task force that appears would duplicate the mission of the current Long-Term Care Planning Committee (LTCP), established in 1998 by the legislature. The LTCP Committee is composed of executive agency representatives and chairmen and ranking members of several legislative committees. The legislature further put in place the Long Term Care Advisory Council to advise the Planning Committee, composed of a mix of two independent state agencies (the Commission on Aging and the Long-Term Care Ombudsman's Office) and various long-term care industry, labor, and elderly interest groups. Over the years, both entities have added members, so that now the Planning Committee has 23 members and the Advisory Council 27.

The Planning Committee's original charge was to create a long-term care plan for the elderly and study various elderly-related issues, which was later expanded to include all disabled people. The Committee has produced a number of plans as required, to address at least three of the components of the long-term care system: home and community-based services, supportive housing, and nursing facilities and oversaw the development of an extensive and comprehensive study of these issues. Therefore, if additional specific issues need to be addressed, they should come under the cognizance of the Long-Term Care Planning Committee.

Further, the time constraints in the proposed legislation are unreasonable given the massive efforts required in research and preparation not only by the administrative staff assigned, but also of the staffs of the departments under whose cognizance the specific areas of inquiry fall.

SB 973 AN ACT CONCERNING THE DETERMINATION OF UNDUE HARDSHIP FOR PURPOSES OF MEDICAID ELIGIBILITY

The department opposes SB 973 as written because it does not reflect language that was agreed upon by the department and attorneys representing elderly clients and nursing homes.

While the language in subsection (c) of this bill largely mirrors the language in federal law, without further interpretive language, this bill leaves the state open to funding

nursing home costs for individuals who deliberately impoverish themselves to avoid paying for their long-term care costs.

The Centers for Medicare & Medicaid Services (CMS), the federal oversight agency for Medicaid, allows the states flexibility in their interpretations of the federal law. Accordingly, it is imperative that the state be able to enforce the federal transfer of asset penalties for transfers of assets that are made for the purpose of qualifying for Medicaid. The bill as written does not contain any limits on the ability of applicants to utilize the exception therefore transfer of asset penalties are rendered meaningless. Nursing facility costs accrued by wealthy people who have given away all of their money to their children will consequently be improperly shifted to the state. Given the condition of the state's fiscal climate we cannot support shifting costs to the state's general fund.

The attached substitute language we are proposing reflects an agreement reached between DSS staff and attorneys representing elderly clients and nursing homes. This language is the result of several months of discussion aimed at balancing two competing interests: the needs of elderly individuals who may legitimately qualify for the exception and the state's need to ensure that transfer of asset penalties can be applied when appropriate. We urge you to accept this substitute language in place of the language in this bill.

You will note that, in our attached proposed substitute language, there are provisions that are very important to the financial health of nursing facilities. Currently, nursing facilities are unable to file undue hardship requests on behalf of incapacitated residents because they are unable to consent. When residents are subject to a penalty period and the residents don't have any funds, the nursing facilities don't get paid. Language in the alternative bill requires DSS, upon the request of a nursing facility, to grant an extension of time to request an undue hardship waiver to allow a representative to be authorized or legally appointed to act on behalf of the individual. The Department's substitute language also assists elderly individuals who need additional time to file their claims for undue hardship under certain circumstances.

We urge you to accept our proposed substitute language and welcome the opportunity to discuss the proposal further with members of the committee.

HB 6348 AN ACT CONCERNING GRANDPARENTS' RIGHTS

This bill would increase the payment standard for child only assistance units in the Temporary Family Assistance (TFA) program to the foster care rate paid by the Department of Children and Families.

The department had previously estimated that the cost would be approximately \$33 million. Therefore we must oppose the bill due to the significant costs associated with providing such a benefit increase.